

DOCKET FILE COPY ORIGINAL
Before The
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C.

ORIGINAL

In the Matter of

Creation of a Low Power
Radio Service

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)
) MM Docket No. 99-25
)
) RM-9208
) RM-9242
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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

To: The Commission

REPLY TO OPPOSITION AND RESPONSE TO PETITIONS FOR
RECONSIDERATION

Introduction

The New York State Thruway Authority ("NYSTA" or the "Thruway Authority"), by and through its counsel, hereby replies to the Opposition and Response to Petitions for Reconsideration filed by the Media Access Project (the "MAP Opposition") in the above-captioned proceeding¹ on April 24, 2000. The instant Reply is limited to those matters raised in the MAP Opposition relating to the ownership limits imposed by the Commission on low power FM ("LPFM") licensees.²

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¹ Creation of Low Power Radio Service (Report and Order), MM Docket 99-25, RM-9208, RM-9242, 65 Fed. Reg. 7616 (Feb. 15, 2000) (hereinafter "Report and Order").

² NYSTA notes, however, that both it and Lohnes and Culver requested that the Commission reconsider its blanket prohibition on the use of directional antennas in the LPFM service. None of the Oppositions to Petitions for Reconsideration filed in this proceeding opposed such request.

There Exists Ample Justification for Relaxation of LPFM Ownership Limits for Government, Transportation and Public Safety Entities.

The MAP Opposition asserts that the Commission “will undermine the benefits of the service if it begins to adopt exceptions to the ownership rules.”³ While the MAP Opposition does not distinguish between (i) the limitation of 10 licenses per entity, and (ii) the two-year moratorium on the acquisition of more than one LPFM license, NYSTA again stresses the importance of the Commission excepting government, public safety and transportation entities from *both* of these ownership restrictions.

The National Restriction on Ownership of Multiple LPFM Facilities Will Render the Service Virtually Useless for Many Public Service and Government Entities.

The MAP Opposition casually suggests that “[p]ublic safety and other government entities will be free to obtain several licenses after the first two year licensing period” and that “[i]f other organizations have not come forward, these entities will be able to acquire many licenses.”⁴ However, the provisions of the Report and Order are not consistent with these statements.

The Commission has established national ownership restrictions that will not allow any one entity, whether public safety, government or otherwise, to own more than 10 stations nationally. This means that entities such as NYSTA and other highway authorities will be unable to substitute their existing AM band TIS facilities with new, higher quality FM band stations. Public safety and other government entities that are providing services to the public over a large, geographically dispersed area, will be unable to utilize LPFM stations because of this limitation. This restriction does not, in the case of public safety and government entities, serve a beneficial purpose.

³ MAP Opposition, p. 8

⁴ MAP Opposition, p. 8.

Public Safety and Other Government Entities Warrant Exception to the 2-Year Limit on Holding Multiple LPFM Station Licenses.


The Commission can demonstrate flexibility toward public safety and other government entities, without undermining the benefits of the service, by excepting such entities from the two-year moratorium on the acquisition of more than one LPFM station license. Government, transportation and public safety entities must be able to disseminate emergency and public safety information over a large geographic area. For example, the Thruway is a 641-mile superhighway crossing New York State with clusters of synchronized, AM band TIS stations broadcasting one consistent message within discrete geographic areas. One LPFM station does not allow these entities the ability to provide safety and informational services to *all* of their “local” public relying on such services, even within a single cluster. This effectively precludes public safety and governmental entities such as NYSTA from being able to move from the AM band to the LPFM frequencies.

Conclusion

It is important that public safety and other governmental entities, such as NYSTA, be recognized as having separate and distinct needs from other potential LPFM licensees. NYSTA and other similar entities are eager to migrate from the AM band to the higher quality LPFM service in order to better serve the public by providing consistently reliable traffic, safety and other information over the airwaves. However, to do so the Commission must remove existing ownership restrictions.

Respectfully Submitted,

NEW YORK STATE THRUWAY AUTHORITY

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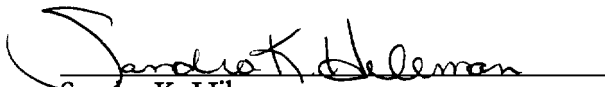
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Dated: May 4, 2000

CERTIFICATE OF SERVICE

I, Sandra K. Hileman, a legal secretary for the law firm Patton Boggs LLP, certify that on May 5, 2000, a copy of the foregoing "Reply to Opposition and Response to Petitions for Reconsideration" was caused to be served by First Class U.S. mail, postage prepaid to the following:

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